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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,626	11/30/2000	Arthur Wong	7880M	5406

27752 7590 03/01/2005

THE PROCTER & GAMBLE COMPANY
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EXAMINER

COLE, ELIZABETH M

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/729,626

Applicant(s)

WONG ET AL

Examiner

Elizabeth M. Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 11-18, 21-25, 31-34, 37, 38 and 47-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 11-18, 21-25, 31-34, 37, 38 and 47-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/23/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-3,6,11-14, 49-52, 56, 62-63, 68-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenway, U.S. Patent No. 5,281,461 for the reasons set forth in paragraph 3 of the previous action.
3. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenway in view of Shizumo et al, U.S. Patent No. 5,525,397 as set forth in paragraph 5 of the previous action.
4. Claims 21-25, 53-55, 57-59, 64-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenway in view of Shizumo as applied to claims above and further in view of Floyd et al, U.s. Patent No. 4,683,001 as set forth in paragraph 7 of the previous action.
5. Claims 31-34, 37-38, 60-61, 71-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenway in view of Shizumo as applied to claims above, and further in view of Lin, U.S. Patent NO. 5,280,664 as set forth in paragraph 9 of the previous action.
6. Claims 47-48, are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenway in view of Shizumo as applied to claims above, and further in view of Floyd et al, U.S. Patent No. 4,683,001 and Lin, U.S. Patent NO. 5,280, 664 as set forth in paragraph 11 of the previous action.
7. Applicant's arguments filed 11/23/04 have been fully considered but they are not persuasive. Applicant's summary and discussion of the Greenway patent at pages 8-10

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has been carefully considered. Applicant argues that Greenway does not explicitly discuss the three dimensional characteristics of the Greenway fabric. However, the title of the Greenway patent is "Textured Nonwoven Fabric". Greenway teaches that the pattern of the forming apparatus is mirrored in the fabric itself. See col. 3, lines 3-14 and example 1. Therefore, Greenway clearly teaches a textured fabric wherein the texture results from the use of the forming apparatus with the frusto-conical apertures. The purpose of using the forming surface with the apertures is to make a textured fabric which has appealing aesthetic properties and which is also suitably strong, etc. While Greenway does not specifically relate the cleaning abilities of the wipe to the surface topography, Greenway does teach optimizing the topography to form a fabric having the desired texture and strength.

8. Applicant argues that Greenway does not teach optimizing the topography of the wipe in order to optimize the cleaning ability of the wipe for cleaning particulate soils. However, it is not required that the motivation for modifying the reference be the same as Applicant's motivation. Here, Greenway teaches that nonwoven fabrics can be formed so that they comprise a textured surface, and that the particular patterns of the texturing can be selected so as to optimize the strength and aesthetic properties of the fabric. Applicant is claiming a nonwoven fabric with a particular texture. No evidence has been submitted showing that the particularly claimed topography has an unexpected improvement regarding cleaning particles. Further, the claims do not recite a particular cleaning ability for particular types of soil. The claims recite a "...cleaning sheet for cleaning a surface having particulate soils..." but are not specific as to a

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particular degree of cleaning ability, or even as to what constitutes particulate soils, (i.e., what sizes or types of particulate soil).

9. Applicant argues that the specification of Greenway does not provide reasonable guidance as to how to optimize the texture of the nonwoven fabric. However, Greenway teaches that the fabric texture is directly related to the forming surface. Greenway teaches how to make and use the forming surface to form the fabric. Therefore, Greenway provides reasonable guidance as to how to optimize the texture of the fabric.

10. Applicant seems to be arguing that Greenway does not teach how to make the particular topography claimed. The examiner agrees that this is true, however, that is not the basis of the rejection. The basis of the rejection is that Greenway teaches a fabric with a textured surface and teaches that the texture of the surface can be controlled by controlling the structure of the forming apparatus. Therefore, Greenway teaches both a textured nonwoven fabric generally and a means of controlling the specifics of particular fabrics. The basis for the rejection is that given this teaching it would have been obvious to have optimized the texture through the process of routine experimentation. There is nothing on the record to show that the particularly claimed textured fabric possesses unexpected improvements due to the particular topography of the surface of the fabric. The fact that Greenway does not teach the particular dimensions does not mean that Greenway does not render the particular dimensions *prima facie* obvious. Since Greenway teaches how to make the textured fabric, and provides clear teachings regarding the link between the texture and the aesthetics and overall strength of the fabric, Greenway provides clear motivation to select the texture

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through the process of routine experimentation in order to optimize the texture. This is not undue experimentation, but rather routine experimentation.

11. Applicant argues that no secondary reference has been provided to show that the forming apparatus of Greenway could be modified. However, Greenway teaches at col. 13, lines 11-20, that the forming apparatus can be changed to produce different fabrics.

12. Applicant argues that the forming fabric of thickness of the screen of .003 inches would make the average height differential .762 mm rather than 1. However, looking at figures 6B, the thickness referred to as D-1 relates to the width of the aperture at the top rather than the depths of the screen. Further, even if D-1 did relate to the depth of the aperture, the depth set forth is exemplary, not mandatory. Finally, the height differential would be measured from the lowest point to the highest point on the resulting fabric, and again, looking at figure 6b, it appears that since the edges of the aperture are curved, the height of the protuberance formed would be greater than the height of the aperture.

13. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a

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reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

14. Applicant argues that references have been selectively combined. However, Greenway teaches forming textured fabrics by hydroentangling and teaches the benefits which result from the textured fabric as well as a means by which the resulting texture can be controlled. While it is acknowledged and stipulated that Greenway does not explicitly teach the claimed surface topography, it is the examiner's position that Greenway renders the claim *prima facie* obvious as set forth above. Applicant has not presented any evidence of unexpected results relating to the particular surface topography.

15. The Declaration under 37 CFR 1.132 filed 11/23/04 is sufficient to overcome the rejection of claims based upon WO 99/07273.

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

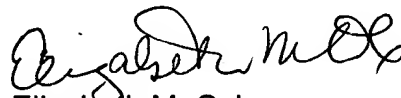
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (703) 872-9306.


Elizabeth M. Cole
Primary Examiner
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e.m.c